

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**RE: BAY STATE GAS COMPANY
2004 SERVICE QUALITY REPORT**

DTE 05-12

COMMENTS OF LOCAL 273, UTILITY WORKERS UNION OF AMERICA

I. INTRODUCTION

On February 28, 2005, Bay State Gas Company (“Bay State” or “Company”) filed its Service Quality (“SQ”) Report for the calendar year 2004, docketed as DTE 05-12. The Department issued notice dated April 6, 2005 that interested parties may file comments on the SQ Report by April 21, 2005.

Local 273 of the Utility Workers Union of America (“Local 273” or “UWUA”) represents workers in the Company’s Brockton division who perform a wide range of operations and maintenance tasks. Local 273 has been a very active party in a number of proceedings involving service quality standards, including DTE 99-84, in which the Department first adopted SQ standards, and, most recently, DTE 04-114, the Department’s review of the overall system of SQ regulation.

II. COMMENTS

A. Staffing levels

Bay State reports a “total full-time FTEs”¹ staffing level of 545 for 2004, the first increase in seven years but still well below the reported level of 815 for 1998.² The historical figures reported in the 2004 SQ Report (DTE 05-12) vary significantly from the staffing levels reported

¹ “Full-time equivalents”

² DTE 05-12, Section Two, Page 4. On the same page, the Company also reports “total part-time FTEs” of 23 for 2004, exactly half the 46 part-time FTEs reported for 1998.

in the 2003 SQ Report (DTE 04-12), as summarized below:

Comparison of Full-Time Staffing Levels as Reported in 2004 v. 2003						
Full-time FTEs	1998	1999	2000	2001	2002	2003
DTE 05-12 (2004)	815	782	735	671	532	504
DTE 04-12 (2003)	950	911	853	781	622	592

The SQ Report footnotes suggest that the Company in both the 2003 and 2004 Reports consistently excluded the same categories of workers, e.g., Granite State and temporary employees as well employees who work for Bay State but who are now on the payroll of Nisource Corporate Services.³ Therefore, it is not at all apparent why the reported figures should vary by well over 100, for example, why Bay State reported having 950 employees in 1998, at the time it filed its 2003 SQ report, but revised that figure to 815 employees in 1998 when it filed its 2004 report.

The Department has had a dismaying record of failing to enforce or even investigate staffing levels reported in SQ filings, despite the clear mandate of G.L. c. 164, § 1E that the Department set benchmark staffing levels and despite the repeated requests not only of the UWUA but also of the Attorney General to allow for reasonable discovery in the SQ dockets.⁴

Local 273 asks that parties be granted the right to file reasonable discovery of Bay State's 2004 SQ Report of staffing levels. This is particularly important given the significant

³ Compare DTE 04-12, Section Two - Page 4 to DTE 05-12, Section Two - Page 4.

⁴ See, for example, April 21, 2004 letter of Assistant Attorney General Wilner Borgella to Mary Cottrell in dockets 04-12 and 04-14 to 04-25, in which the Attorney General's office protested the lack of any procedural schedule in the SQ dockets; the lack of evidentiary or public hearings; and the lack of any right of parties to file discovery.

disparities between the 2003 and 2004 Reports, as well the fact that each Report shows that staffing levels have declined approximately one-third since 1998, just after the Restructuring Act became law.⁵

Further, Bay State's Form A summary for staffing levels notes that "[p]er the Department's Letter Order dated May 28, 2002, pp. 3-4, no benchmark was established for this measure by the DTE." The Company is unfortunately correct. In the seven years since the Restructuring Act became law and in the three years since the ruling Bay State notes, the Department has failed to adopt any benchmark staffing levels for Bay State. However, the Department explicitly rejected Bay State's request that it be allowed to add a footnote to its SQ Plan stating that it is exempt from setting benchmark staffing levels. Contrary to arguments Bay State made, the Department held that it has "multiple sources" of authority "to investigate a distribution company's staffing levels and to include an SQ measure for staffing levels."⁶ But in the three years since making it clear that the Department can require Bay State to adopt a benchmark staffing level, it has done nothing to implement this ruling. **Local 273 calls upon the Department to promptly open an investigation to set benchmark staffing levels for Bay State**, as required by G.L. c. 164, §§ 1E & 1F and by DTE 99-84 (June 29, 2001), Att. 1, § IV, and in accordance with the May 28, 2002 letter ruling. Bay State has been allowed to slash its staffing levels with impunity. The Department should not allow this to continue.⁷

⁵ The Restructuring Act, St. 1997, ch. 164, was adopted with an emergency preamble on November 25, 1997.

⁶ May 28, 2002 Letter Order in DTE 99-84, p. 4.

⁷ Local 273 recently filed comments with the Department in DTE 04-116 outlining some of the adverse impacts Bay State's staffing level cutbacks have had on customer service. See

B. Capital spending

Bay State reports that it completed \$36.6 million of “capital investments” in 2004, and \$15.4 million in “replacements.”⁸ This marks a one-third increase in capital investments over 2003, and a near-doubling in replacements over 2003.

Local 273 has two closely related concerns about the report capital expenditures. First, Bay State is on the verge of filing a rate case. By ramping up expenditures in 2004, Bay State will increase the reported expenditures in its historic test year (presumably, a 2004 test year), perhaps as an attempt to present a skewed and unrepresentative cost of service that will drive rates upward. When the Department investigates Bay State’s rate filing, it should carefully consider whether the 2004 test year capital and replacement figures are representative of the amounts Bay State is likely to spend in 2006 (the first full year when new rates will be in effect) and beyond.

Second, the Department should investigate why Bay State’s capital investments plummeted in 2000 to 2003 and the impact this may have had on service quality. In 1999, Bay State spent \$67.7 million on capital investment.⁹ In 2000, the figure was \$33.7 million, a drop of over 50%. Looking at a longer time and more representative time-frame, the Company expended an average of \$30.5 million on capital investments for the four years 2000 to 2003. For the four years 1996 to 1999, the Company’s average capital expenditures were \$46.9 million. Rather than increasing its expenditures to keep up with inflation and a seriously aging infrastructure, Bay

UWUA Comments in DTE 04-116, pp. 10-15.

⁸ DTE 05-12, Section Two - Page 2.

⁹ DTE 05-12, Section Two - Page 2.

State actually decreased its capital expenditures by one-third. **The Department should allow parties to file reasonable discovery on Bay State's cuts in capital expenditures from 2000 to 2003, and on the Company's current five-year capital plan.** Bay State, like any gas company, must make substantial investments in infrastructure year-in and year-out in order to protect the public's safety and to provide high-quality service to customers. Without being granted discovery rights, parties can only infer from the reported figures that Bay State was not making the investments needed to met these important public safety and service quality goals.

C. Unaccounted for gas

In the last seven years, Bay State reports four years with negative unaccounted for gas and three years of positive unaccounted for gas ranging from .68% to 1.4%. Unaccounted gas arises from numerous factors including not only leaks but variations in the temperature and pressure at which gas is delivered at city gates and measuring devices. Since actual temperatures and pressures can be either above or below the assumed delivery standards, these factors can give rise to negative or positive unaccounted for gas. However, the high year-to-year variations in the reported figures require that the Department more carefully investigate the reported results. In addition, **parties should be granted reasonable discovery of the underlying data.**

D. Telephone service factor

Bay State's reports make it appear that it answers a high percentage of all calls within 30 seconds and that relatively few customers wait longer than that to have their calls answered.¹⁰ However, Bay State's affiliate Northern Utilities files much more detailed reports with the New Hampshire PUC on the Springfield, Massachusetts call center that handles all calls for Bay State

¹⁰ DTE 05-12, Section Three - Page 1.

and Northern customers. In those more detailed filings, Bay State reported, for example, that the average wait time for a customer who wished to speak to a live customer service representative (CSR) was 3 minutes or longer, in a month where the company reported answering 60% of all calls within 30 seconds. This is because the very long wait times for customers who wish to speak to a CSR are averaged in with the wait times for customers who are simply looking for automated information on the status of their accounts.¹¹ As the New Hampshire PUC has done, the Department should carefully investigate how Bay State categorizes and determines the answering time for (i) calls answered completely within the “Integrated Voice Response” (“IVR”, or automated) system; (ii) calls answered partially by IVR and then transferred to a CSR; (iii) and calls handled solely by CSRs. Bay State’s reports may mask the fact that customers who wish to speak to a CSR in fact wait quite a long time to do so by adding in all of the simpler calls where customers are seeking information that is available from IVR. The Department should be most concerned about calls from customers who are looking for more than an automated response. The Department should require the Company to file more detailed, underlying data **and allow parties reasonable discovery of this data.**

III. CONCLUSION

The Utility Workers Union of America, Local 273 asks the Department to issue a ruling consistent with these comments. In particular, Local 273 asks the Department to immediately grant interested parties discovery rights, as noted above.

¹¹ May 28, 2003 letter from Bay State president Stephen Bryant to NHPUC, “Northern Utilities, Inc., Docket No. DG 01-182 - April 2003 Service Quality,” App. A, p. 1 (“avg wait time 3:14”).

Respectfully submitted,

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